S.B. CIVIL WRIT PETITION NO. 6280/2005.
(RAMESHWAR LAL VS. STATE & ORS.)

DATE OF ORDER : 03.10.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. M.C. Bhoot for the petitioner.
Mr. B.L. Tiwari, Dy.GA, for the respondents.

By the order dated 24.08.2004, the petitioner was transferred from the post of Head Master, Government Secondary School, Kuchaman City (Nagaur) to Government Secondary School, Ghodas, District Bhilwara. Being aggrieved by the order referred above, the petitioner preferred an appeal before the Rajasthan Civil Services Appellate Tribunal, Jaipur, that came to be rejected by the order dated 08.08.2005. Learned Tribunal while rejecting the appeal preferred by the petitioner, held that the petitioner was transferred from Kuchaman City to Ghodas in administrative exigency, there was no mala fides in transferring the petitioner from Kuchaman City to Ghodas and the petitioner failed to implead the necessary parties to the appeal as party respondents. Being aggrieved by the judgment dated 08.08.2005, this petition for writ is preferred by the petitioner.

While giving challenge to the judgment impugned and also the order of transfer, it is contended by counsel for the

petitioner that the order impugned dated 24.08.2004 on its face appears to have been passed under extraneous consideration as in the entire order, there are only two persons, who have been transferred outside the district Nagaur. This Court by the order dated 06.09.2006, directed the respondents to satisfy the Court as to why the petitioner was transferred from Nagaur to Bhilwara and also as to whey they chose to keep the post of the Head Master at the school concerned vacant for a period of more than two years. The respondents utterly failed to satisfy the Court with regard to the reasons for transferring the petitioner from District Nagar to Bhilwara, especially in the circumstances that all the other persons under Annexure 3 were posted to District Nagaur only. Counsel for the respondents even in response to the order dated 06.09.2006 has not been given any specific reason for transferring the petitioner from District Nagaur to district Bhilwara. It is true that the there is no violation of any Statute in transferring the petitioner from district Nagaur to district Bhilwara, however the power to transfer a person is required to be exercised in administrative exigency and with all fairness. In the instant matter, learned counsel for the respondents failed to satisfy to single out the petitioner to be transferred from district Nagaur to district Bhilwara and that creates doubts over the intentions of the respondents in transferring the petitioner from district Nagaur to district

Bhilwara. The learned Tribunal while examining the validity of the order dated 24.08.2004 has not taken into consideration this aspect of the matter. The learned Tribunal merely on the count that the petitioner was posted in the district Nagaur for a period of about 21 years, reached at the conclusion that the transfer of the petitioner is an administrative exigency and it is not an out-come of malafides. It is important to note that the respondents while keeping the post of Head Master vacant at Government Senior Secondary School, Kuchaman City, transferred the petitioner to Godhas (Bhilwara) and the post at Kuchaman City is still lying vacant. This fact also substantiates the contention of the counsel for the petitioner that the order of transfer is an out-come of extraneous consideration.

In view of whatever stated above, the petition for writ is allowed. The judgment dated 08.08.2005 passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur is declared illegal and the order dated 24.08.2004 passed by the Director, Secondary Education, Government of Rajasthan, Bikaner to the extent it relates to the petitioner is quashed.

No order to costs.

(GOVIND MATHUR)J.

Anil/